

Message Text

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ACTION EA-14

INFO OCT-01 ADP-00 AID-20 EB-11 NSC-10 RSC-01 CIEP-02

SAL-01 SS-14 STR-08 OMB-01 CEA-02 CIAE-00 COME-00

FRB-02 INR-09 NSAE-00 TRSE-00 XMB-07 OPIC-12 LAB-06

SIL-01 OPR-02 L-03 H-02 PA-03 PRS-01 USIA-12 PM-09

T-03 RSR-01 /158 W

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R 190850 Z MAR 73

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 0000

INFO SECDEF

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C O N F I D E N T I A L SECTION 1 OF 2 MANILA 3127

CINCPAC FOR POLAD

E. O. 11652: GDS

TAGS; MARR, RP

SUBJECT: 1971- 72 MBA WORKING GROUP TALKS: REVIEW OF STATUS
OF NON- AGREED ARTICLES; ARTICLE XII (TAX EXEMPTIONS)

REFS:

A. MANILA 571 1 90747 Z JAN 72

B. MANILA 572 190746 Z JAN 72

C. MANILA 3122 1 90724 Z MAR 73

1. THIS ARTICLE WAS ONE OF THE MOST DIFFICULT TO COME
TO TERMS WITH IN THE WORKING GROUP TALKS. AS IT IS SET
FORTH IN THE 1947 MBA, THE ARTICLE MEETS VIRTUALLY ALL
U. S. NEEDS. HOWEVER, AS IT STANDS IN THE 1947 AGREEMENT,
IT CONFERS EXCESSIVELY BROAD INCOME TAX EXEMPTIONS FROM
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THE PHILIPPINE POINT OF VIEW. THE GOP NEGOTIATORS WERE ADAMANT THAT PARA 4 OF THE 1947 ARTICLE IN WHICH AN EXEMPTION OF US CONTRACTORS FROM PHIL INCOME TAXES IS SET FORTH HAD (UNDERLINE HAD) TO BE DELETED. THE REASON WAS THAT LOCAL US CONTRACTORS HAD CLAIMED EXEMPTIONS UNDER THE ARTICLE FOR WHAT THE GOP BASICALLY SAW AS NORMAL LOCAL BUSINESS TRANSACTIONS. THE DISCUSSIONS OF THIS ARTICLE REVEALED THAT THE PHIL NEGOTIATORS PERCEIVED A DIFFERENCE BETWEEN TECHREPS UNDER CONTRACT TO DOD, AND LOCAL U. S. CONTRACTORS. THE PHILS COULD UNDERSTAND A WORLD- WIDE CONTRACT BETWEEN LOCKHEED AND DOD; BUT THEY TOOK STRONG POSITION AGAINST CONTINUING TO ACCORD INCOME TAX EXEMPTIONS TO LOCAL US- OWNED COMPANIES BECAUSE PHIL NEGOTIATORS INSISTED SUCH EXEMPTIONS GAVE US COMPANIES UNFAIR COMPETITIVE ADVANTAGE OVER PHIL CONTRACTORS.

2. THE PHIL NEGOTIATORS ALSO SHOWED STRONGLY NEGATIVE ATTITUDE TOWARD INCOME TAX EXEMPTIONS FOR US BASE PERSONNEL WHO HAD SETTLED IN THE PHILIPPINES AFTER WORLD WAR II, OBTAINED JOBS AT THE BASES, MARRIED FILIPINAS, AND SPENT 20 OR MORE YEARS LIVING IN THE PHILIPPINES ENJOYING THE ACTUAL, IF NOT LEGAL, STATUS OF PERMANENT RESIDENTS. THIS ATTITUDE APPLIED PARTICULARLY TO FILIPINOS WHO WERE NATURALIZED AMERICAN CITIZENS.

3. THE PHIL NEGOTIATORS ALSO FOUND IT UNACCEPTABLE THAT PARENTS OF PERSONS SERVING IN OR EMPLOYED IN THE PHILIPPINES BY THE BASES, SHOULD THEY WORK, WOULD BE EXEMPTED FROM INCOME TAX. IN GENERAL, THE PHILS FOUND IT ALSO WORRISOME THAT DEPENDENTS WHO WORKED AT THE BASES SHOULD BE EXEMPTED FROM PHIL INCOME TAX. RE LATTER POINT, US PANEL POINTED OUT AT GREAT LENGTH, AS US- RP 1968 BASES LABOR AGREEMENT ACKNOWLEDGES, THERE SIGNIFICANT NUMBER OF JOBS REQUIRING PERSONNEL OF US NATIONALITY (TEACHERS, SECRETARIES, CASHIERS, ETC.,) FOR WHICH DEPENDENTS ARE READY LABOR SUPPLY AND THEIR USE REPRESENTS CONSIDERABLE SAVING TO USG OVER PAYING TRAVEL AND OTHER COSTS OF BRINGING SOMEONE FROM US TO FILL SUCH JOBS. (PHILS PREOCCUPATION WITH THIS QUESTION SEEMED TO BE MORE WITH JOB OPPORTUNITIES FOR RP CITIZENS THAN OBTAINING REVENUE).

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4. WITH RESPECT TO IMPORTATIONS BY US NATIONALS SERVING

IN THE PHILIPPINES OR EMPLOYED IN THE PHILIPPINES IN
CONNECTION WITH THE CONSTRUCTION, MAINTENANCE OPERATION
OR DEFENSE OF THE BASES AND RESIDING IN THE PHILIPPINES
BY REASON ONLY OF SUCH EMPLOYMENT, THE PHIL NEGOTIATORS
WERE PREPARED TO AGREE TO AN EXEMPTION FROM IMPORT OR
EXPORT DUTY OR ANY OTHER TAX ON PERSONAL PROPERTY EXCEPT
FOR PAYMENT OF NORMAL LICENSE AND REGISTRATION FEES FOR
PERSONALLY- OWNED AND OPERATED VEHICLES. THE EXEMPTION WAS
TO BE BASED, HOWEVER, ON REACHING MUTUAL US- RP AGREEMENT
ON A PERIOD OF DAYS WITHIN WHICH PERSONAL GOODS COULD
ARRIVE AFTER THE ARRIVAL OF A PERSON ELIGIBLE FOR SUCH
AN EXEMPTION. THE PHILS OFFERED 120 DAYS, THE US POSITION
WAS 180 OR MORE DAYS, THE PERIOD WAS CLEARLY
NEGOTIABLE. THE PHIL POSITION WAS THAT A PERSON SHOULD
NOT NEED TO IMPORT MORE THAN ONE AUTOMOBILE, FOR EXAMPLE,
IN A TOUR OF DUTY. MOREOVER, THE PHILS TOOK THE ATTITUDE
THAT THE PX' S AND COMMISSARIES APPEARED TO BE WELL-
STOCKED, SO THERE SEEMED LITTLE NEED FOR CONTINUED DUTY-
FREE IMPORTATIONS AFTER A PERSON ELIGIBLE FOR EXEMPTION SHOULD
HAVE MANAGED TO GET SETTLED.

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C O N F I D E N T I A L SECTION 2 OF 2 MANILA 3127

5. ALL OF THESE CONCERNS WERE MANIFESTED IN THE PHIL DEC 9 ARTICLE XII DRAFT. THIS DRAFT WAS NOT FORWARDED AT THE TIME AND IS TRANSMITTED IN SEPTEL. THIS DRAFT WAS SUCH A RADICAL DEPARTURE FROM 1947 ARTICLE XII THAT GOP NEGOTIATORS ACKNOWLEDGED US NEGOTIATORS' VIEW THAT IT WAS TOO RESTRICTIVE. THUS, US- RP WORKING GROUP TAXATION SUB-COMMITTEE MET ON JAN 18, 1972, AND RE- DRAFTED PHIL DEC 9 PROPOSAL IN EFFORT TO MAKE IT ACCEPTABLE TO USG. DRAFT AGREED TO ON JAN 18 WAS TRANSMITTED IN MANILA 571 AND COMMENTED ON IN MANILA 572. HOWEVER, ON JAN 24, PHIL NEGOTIATORS REPORTED THAT THEY HAD BEEN UNABLE TO GAIN AGREEMENT OF PHIL TAX BUREAUCRACY TO JAN 18 DRAFT. THUS, THEY SAID GOP POSITION REMAINED AS STATED IN DEC 9 PROPOSAL. PHIL WORKING GROUP NEGOTIATOR FROM DEPT OF FINANCE (TOLEDO) SAID HE THOUGHT PHIL DEC 9 POSITION COULD BE MODIFIED IN DIRECTION OF JAN 18 DRAFT, BUT IT WOULD TAKE INTERVENTION OF SECRETARY OF FINANCE VIRATA.
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TOLEDO MADE IT CLEAR THOUGH THAT ABOUT ALL USG COULD SALVAGE FROM PARA 4 OF 1947 MBA WOULD BE EXEMPTION FOR TECHREPS, AND THAT OUTLOOK FOR INCOME TAX EXEMPTIONS OF US QUASI- PERMANENT RESIDENT LONG- TERM BASE- EMPLOYEES WAS DIM. TOLEDO INDICATED, HOWEVER, THAT QUESTION OF DEPENDENTS EXEMPTIONS WAS NEGOTIABLE.

7. REQUEST STATE/ DEFENSE REVIEW PHIL DEC 9, 1971 PROPOSAL IN VIEW OF FOREGOING CONSIDERATIONS INDICATING AREAS OF GOP ADAMANCY, IN ORDER TO PROVIDE EMBASSY WITH CONSIDERED JUDGMENTS ABOUT EXEMPTIONS USG WILLING TO GO TO WALL FOR, AND EXEMPTIONS USG PREPARED TO GIVE UP. REQUEST ALSO THAT PHIL DEC 9 1971 DRAFT BE ANALYZED WITH A VIEW TO RECOMMENDED CHANGES OF LANGUAGE THAT WOULD MEET PRIORITY US NEEDS AND HAVE REASONABLE CHANCE OF ACCEPTANCE BY GOP. IN THIS CONNECTION ALSO REQUEST REVIEW US- RP TAXATION SUBCOMMITTEE DRAFT (MANILA 571).
BYROADE

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